

REMARKS

The Examiner has rejected claims 1, 2, 4 and 13 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,969,260 to Belk et al.¹ Claim 3 is rejected over this same reference as being unpatentable under 35 U.S.C. §103(a). Also, the Examiner has indicated that claims 5-12 contain allowable subject matter.

I. Preliminary Matters

The Examiner has not acknowledged the drawings filed on August 18, 2003. Accordingly, Applicant respectfully requests that the Examiner indicate whether such drawings are acceptable.

Further, the Examiner has crossed through two of the three references cited on the PTO 1449 form for the October 6, 2004 Information Disclosure Statement. In regard thereto, the Examiner maintains that the Information Disclosure Statement did not contain a statement of relevance in regard to the remaining two references. Applicant submits that the Examiner's failure to consider the cited documents is in error. Specifically, when filing the Information Disclosure Statement, Applicant submitted a copy of an Office Action in the prosecution of the German application corresponding to the subject application, as well as an English translation of

¹ The statement of rejection on page 2, item 2 listing claims 1-4 as rejected under 35 U.S.C. §102(b) appears to be due to typographical errors.

Amendment under 37 C.F.R. § 1.111
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the pertinent portions of the Office Action, indicating the degree of relevancy found by the German Patent Office for the references.

In accordance with MPEP § 609, a translation of a non-English language reference is not required when an IDS is submitted with a concise explanation of the relevance of a cited document submitted for each patent, publication, or other information listed in an IDS that is not in the English language (See MPEP 609, and 37 C.F.R. § 1.98(a)(3)). When, however, a document is cited in a foreign patent office action or search report, the statement of relevance may be a translation of the portion of the foreign office action indicating the relevance found for the documents. Therefore, Applicant submits that the translation of the foreign office action, submitted as the statement of relevance with the October 6, 2004 Information Disclosure Statement, fully satisfies the requirements under MPEP § 609. Accordingly, the cited references should be considered by the Examiner. Applicant is providing herewith another Form PTO/SB/08 listing the two remaining references, and respectfully requests the Examiner to indicate consideration of the references.

II. Rejections under 35 U.S.C. § 102(b) in view of U.S. Patent No. 5,969,260 to Belk et al. (“Belk”)

The Examiner has stated that claims 1-4 are rejected under 35 U.S.C. § 102(b) in view of Belk. However, the Examiner has provided grounds of rejection for claims 1, 2, 4 and 13, rather than claims 1-4. As set forth above, Applicant assumes that the statement of a rejection of claims “1-4,” on page 2 of the Office Action, is a typographical error.

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A. Claim 1

By this Amendment, Applicant has incorporated the allowable subject matter of claim 5 into claim 1. Accordingly, Applicant submits that the rejection of such claim is now moot.

B. Claims 2 and 4

Since claims 2 and 4 are dependent upon claim 1, Applicant submits that such claims are patentable at least by virtue of their dependency.

C. Claim 13

By this Amendment, Applicant has incorporated analogous features of allowable claim 5 into claim 13. Accordingly, Applicant submits that the rejection of claim 13 is now moot.

III. Rejection under 35 U.S.C. § 103(a) in view of Belk

The Examiner has rejected claim 3 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Belk. Applicant submits, however, that claim 3 is patentable at least by virtue of its dependency upon claim 1.

IV. Allowable Subject Matter

As set forth above, the Examiner has indicated that claims 5-12 contain allowable subject matter. Since claim 5 has been incorporated into claim 1, Applicant has canceled claim 5 without prejudice or disclaimer.

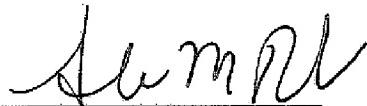
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V. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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Date: February 7, 2007

Substitute for Form 1449 A & B/PTO				<i>Complete if Known</i>	
<u>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</u>				Application Number	10/642,204
				Confirmation Number	1075
				Filing Date	August 18, 2003
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				Art Unit	2632
				Examiner Name	Edwards Jr., Timothy
Sheet	1	of	1	Attorney Docket Number	

U.S. PATENT DOCUMENTS

FOREIGN PATENT DOCUMENTS

NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city, and/or country where published.	Translation ⁶

Examiner Signature _____ **Date Considered** _____

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹Applicant's unique citation designation number (optional). ²See Kind Codes of USPTO Patent Documents at www.uspto.gov, MPEP 901.04 or in the comment box of this document. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST. 3). ⁴For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁶Applicant is to indicate here if English language Translation is attached.